

[1]

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH**

S.B. CRIMINAL MISC. PETITION NO.380/05

Rewati & Ors. **Versus** Kulbhushan & Anr.

DATE OF ORDER :: 01/11/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Devi Singh Semara, for petitioners

Mr. Arun Sharma, Public Prosecutor for State

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Instant petition has been filed assailing order dt.20th August, 1996 whereby learned trial Judge took cognizance against accused-petitioners and the revision petition preferred against said order was also dismissed vide order dated 21st February, 2005.

On a written report submitted by complainant Kulbhushan, FIR No.282/92 was registered against accused-petitioners at Police Station Nadbai, Bharatpur on 30th August, 1992 for offence u/ss.147, 149, 452, 323, 324, 379 & 427 IPC. Police after investigation filed challan against six accused persons only and not against the present petitioners despite they being named in FIR. Immediately on filing challan, the complainant filed a complaint against those persons challan has not been filed despite they being specifically named in FIR and also during investigation, when their statements were recorded u/s.161 Cr.P.C. On the said complaint

[2]

statements were recorded u/ss.200 & 202 Cr.P.C. and learned trial Judge took cognizance against present accused-petitioners as well after taking note of statements recorded for offence u/ss.147, 149, 323, 324 & 325 IPC. Against said order, revision petition was filed which was dismissed by a detailed order.

Basic objection raised by counsel for petitioners is that once cognizance has been taken of offence being committed, by learned trial Judge the complaint on which cognizance has been taken against accused-petitioners for self-same incident was not maintainable and both the courts below have committed a manifest error in taking cognizance against accused-petitioners.

Learned trial Judge in his order has referred the judgment of this court reported in CLR [Raj.] 1987-62 where it was observed that there is no jurisdictional error committed by learned trial Judge while taking cognizance against accused-petitioners and even otherwise, no challan was filed against them.

This court is of the opinion that after statements were recorded u/ss.200 & 202 Cr.P.C., on the material came on record certainly cognizance can be taken against accused-petitioners as well for self-same incident and while passing order learned trial Judge has

[3]

further observed that both can be heard together in view of Section 210 Cr.P.C.

This Court has gone through the order impugned and does not find any infirmity therein which may call for interference.

Consequently, the misc. petition fails and is hereby dismissed.

[AJAY RASTOGI], J.